

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORLANDO MARTIN,

Plaintiff,

No. CIV S-05-0557 DFL JFM P

vs.

ALVARO C. TRAQUINA, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. On September 27, 2005, defendants filed a motion to dismiss this action. On November 1, 2005, plaintiff filed a motion for leave to amend his complaint, together with a document styled "Amended Complaint." Defendants have filed a statement of non-opposition to plaintiff's motion. Good cause appearing, plaintiff's motion will be granted. Defendants' motion to dismiss, which is directed to allegations of the original complaint, will be denied as mooted by the amendment of plaintiff's complaint.

Local Rule 15-220 requires that an amended complaint be complete in itself without reference to any prior pleading. This is because, as a general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Therefore, in any amended complaint the involvement of each defendant must be sufficiently alleged.

1 The document styled by plaintiff as an amended complaint is not in fact complete  
2 in itself without reference to prior pleadings. Instead, plaintiff seeks to dismiss three defendants  
3 from this action and to delete all references to said defendants from the original complaint. In  
4 accordance with Local Rule 15-220, the court will require plaintiff to file a second amended  
5 complaint that is complete in itself.

6 In accordance with the above, IT IS HEREBY ORDERED that:

7 1. Plaintiff's November 1, 2005 motion to amend is granted.

8 2. Plaintiff's complaint and the document filed November 1, 2005 and styled  
9 "amended complaint" are dismissed.

10 3. Plaintiff is granted thirty days from the date of service of this order to file and  
11 serve a second amended complaint that complies with the requirements of the Civil Rights Act,  
12 the Federal Rules of Civil Procedure, and the Local Rules of Practice; the second amended  
13 complaint must bear the docket number assigned this case and must be labeled "Second  
14 Amended Complaint"; plaintiff must file an original and two copies of the second amended  
15 complaint; failure to file a second amended complaint in accordance with this order will result in  
16 a recommendation that this action be dismissed.

17 4. Defendants' September 27, 2005 motion to dismiss is denied.

18 5. Defendants shall file and serve a response to plaintiff's second amended  
19 complaint within twenty days after service thereof.

20 DATED: December 21, 2005.

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23 UNITED STATES MAGISTRATE JUDGE  
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